

OWENS VALLEY WATER DISPUTE

A dramatic controversy in the public spotlight recently shows the hard choices we face in our complicated world where natural resources are limited, shrinking, and more expensive in incremental stages.

For Leaguers, it is a classic case where land use, air quality, and water positions interface with the human and government revenue positions.

It is the on-going battle between the City of Los Angeles' Department of Water and Power (DWP) and sparsely populated, rural Inyo County. Currently, this confrontation revolves around an Environmental Impact Report (EIR) on increased pumping of Owens Valley groundwater. The Third Court of Appeals in Sacramento is hearing the two protagonists argue the adequacy of a three-staged, three-volume, 6 pound document. The court will hear oral arguments on the EIR early in 1977 and then rule on its validity.

Residents of the area believe the survival of Owens Valley (1,005 square miles of land) is at stake. DWP officials fear the loss of the cheapest, cleanest water available to them. Inyo-Mono water supplies 80% of the Los Angeles basin's needs. The higher cost of alternate sources of water plus the loss of hydroelectrical generation conflict with an attempt to protect the environment as it exists today in Owens Valley.

The turbulent history of the DWP's arrival in Owens Valley and the way in which it acquired the critical land and riparian rights prior to 1914 is the topic of books, scholarly articles, and at least one movie. "Politics of California Water" by William Kahrl is an objective, lengthy

article that covers the history of this saga well. It appeared in the spring and summer issues of the California Historical Quarterly in 1976 for those wanting more details.

In 1913 DWP achieved a monumental engineering first when the 223 mile long aqueduct to Los Angeles was opened. Later, to satisfy the needs of the city's expansion, DWP prepared to build a second aqueduct paralleling the first. In 1963 plans for the second "barrel" specified groundwater pumping rates for a long term annual average of 89 cubic feet per second (cfs) and for maximum annual average of 250 cfs. The second aqueduct became a reality when water flowed to Los Angeles in 1970, five months before the California Environment Act (CEQA). Today the two aqueducts combined export 666 cfs of water or 482,184 acre feet each year.

By June of 1970, DWP's proposed pumping figure had jumped from 89 cfs to 140 cfs and then in 1974 to 180 cfs. When the second aqueduct opened, 80 wells had been drilled to pump water and plans for 50 more were in progress. Today, DWP spokesman said 500 wells exist on the valley floor. When the second aqueduct went into operation, DWP increased its export of Owens Valley, Mono Basin water by 50% and reduced the water it purchased from the Metropolitan Water District.

Because of its concern about environmental degradation that will result from the increased pumping and because of the economic and environmental losses already sustained, Inyo County filed suit against the City of Los Angeles in 1972. Citing CEQA in Inyo versus Yorty, they forced the DWP to write an EIR.

In the first round after protracted court action the Third Appellate Court set a new annual maximum pumping rate of 149.5 cfs. Inyo County had asked for a limit of 89 cfs

while the EIR proposed a maximum annual pumping rate to be expanded from 250 to 315 cfs and the long-term average allowed from 89 to 140 cfs. There is a big difference between a long-term average and maximum annual pumping. A long-term average may appear harmless, whereas if water is pumped all at one time or at a critical period such as a dry year, it could cause significant environmental damage.

A brief filed October 1, 1976 by Inyo County and since supported by an amicus curiae filed by the Sierra Club, Friends of the Earth, and League of Women Voters of Eastern Sierra, argued that DWP's EIR fails to comply with CEQA because:

- 1) it fails to effectuate the mandate of CEQA and the court that the City's decision-making process include the widest possible local public participation

- 2) it failed to disclose crucial staff reports for public review and comment. In so doing it misled its own decision making Board as well as public opinion.

- 3) it fails to describe the project correctly (its definition's stated purpose is to increase pumping for uses on lands in Inyo and Mono Counties owned by the City of Los Angeles)

- 4) it fails to define and discuss the alternative of "no project"

- 5) it fails to assess and fairly consider other alternatives of conservation, waste water reclamation, alternate water sources and energy production

- 6) it fails to assess the project's adverse effects on air quality, in fact it misrepresents a true assessment of air quality danger

- 7) it fails to assess adequately the projects impact on the Owens Basin Aquifer

- 8) it fails to assess adequately the projects impact on the Valley flora and fauna

- 9) it fails to respond to significant environmental points raised in the comments.

It then argues that the DWP's board's decision to approve the increased groundwater pumping program violates CEQA because:

1) preliminarily, Congress has required the City to follow state law, and has withdrawn the federal Owens Valley watershed for the benefit of the entire state

2) CEQA mandates disapproval of the DWP's proposed groundwater extraction because environmentally superior and feasible alternatives will meet the city's water needs

3) CEQA, as complemented by Article X, Section 2 of the California Constitution, mandates disapproval of the project as proposed, because the city has not established that all its exports from the Owens Valley are devoted to reasonable and non-wasteful use.

4) CEQA, as complemented by Water Code section 106.5 mandates disapproval of the project as proposed, because the city has not established that its exports from the Owens Valley do not exceed its reasonable and existing needs.

5) CEQA, as complemented by the "watershed of origin" doctrine, mandates disapproval of the project proposed, because it extracts waters from the Owens Valley watershed that are needed to protect its environment.

Owens River drainage and especially Owens Valley is the scene of the water controversy. Located on the high desert of California, it is hemmed in on one side by the precipitous Sierra Nevada and on the other side by the drier White-Inyo Range. Periods of glaciation, volcanic activity, and faulting have given the valley its unique character. Water is its greatest wealth, and water has become the critical issue which will determine its future.

Gushing streams from snowmelt flow off the High Sierra during the spring and early summer, in addition to the year-round flow. Much of this percolates into the vast

storage basin underlying Owens Valley. Historically, the valley floor has benefited from a high water table. This, combined with percolation through the alluvial fans, has fed numerous springs, artesian wells, and has maintained valuable boggy habitats.

Salt grass meadows covered large areas where the groundwater came near the surface. Where the water level was lower, salt-tolerant desert shrubs furnished the ground cover. On the most favorable soils, sagebrush and its associates thrived. Plant communities range from the Alkali Sink of Owens Lake to the Sagebrush Scrub which indicates the Great Basin influence.

Each one provides a specialized habitat for animals, birds, insects, and fish. Presently, some of those communities have been drastically altered so that the relationship between flora and fauna has been affected. On a recent field trip, members of Eastern Sierra League viewed the effects of pumping activities. The lowering of the groundwater brought about observable changes. Springs had ceased to flow, vegetation was dead or dying, and marshy areas were drying from water diversion. Where plants once flourished, they were seen struggling for survival on parched, powdery soil.

A 1928 soil survey by the Soil Conservation Service described an area of more than 10,000 acres having a water table less than three feet north of Bishop. Today, dust rises from that area when cars, horses, or people travel over it or gusts of wind sweep across it.

The EIR for increased pumping of Owens Valley groundwater acknowledges that 22% of the vegetation will be affected. Botanists believe DWP understates the severity of the impact and that DWP misrepresents the type of

plant succession that will occur. No mitigating measures for the vegetation change are proposed in the EIR, except further study.

The entire economy of the area has been affected by the fact that land and water rights were bought by the DWP. Today, the area's economy is geared to tourists seeking clean air, outdoor activities, and broad vistas after the hectic pace of the cities. Merchants find themselves handicapped in obtaining financing for expansion because they can obtain only five year leases from DWP. Although some parcels of land, without water rights, have been sold back to private owners, much of the town or commercial property is still owned by the DWP.

An enthusiastic description by a Chamber of Commerce promotional booklet written in 1908 called Owens Valley "the garden spot of Inyo". Where once there were numerous land owners, there is now a monopoly of land ownership. Today, 2,000 acres are irrigated for alfalfa fields and 11,000 acres are leased to 63 leasees mainly for cattle ranching. Much of the land is leased to an absentee leasee.

Few choice parcels are available for residential development, forcing land and housing prices up. When the Eastern Sierra League studied land use planning, they saw the heavy influence DWP held over growth and land use planning. They concluded Inyo County's General Plan must include a strong and comprehensive water basin plan with emphasis on local community and environmental needs and must be up-dated to reflect community needs.

A related problem exists to the north where water diversion has meant that Mono Lake is dropping an average of one and a half feet per year. Negit Island in Mono Lake is one of the most important rookeries for California seagulls in existence. It will be connected to land within two years, at which time predators can

easily reach gull eggs and chicks. This prediction came from a team of university graduate students who studied the lake under a National Science Foundation grant. They noted that as the lake recedes, barren areas of alkali flats are exposed, where little or no vegetation will grow for at least 40 years. The lack of groundcover on fine, alkali soil will allow even moderated winds to lift billowing clouds of dust into the atmosphere.

It is a classic case of the rural minority of 17,400 people of Inyo County and 7,300 residents of Mono County versus the majority of 3 million water users in the urban south. From the perspective of DWP, an organization that has the single goal of delivering water and power at the least cost and most profit, the overriding factors are:

- 1) replacing water lost from a reduction in pumping would cost the users more
- 2) a reduction in the total of water exported would decrease the hydroelectrical generation along the L.A. aqueduct and increased amounts of energy consumed in replacing this water
- 3) the increased demand for energy will require the burning of oil and would cause additional air pollution in the South Coast Air Basin.

Opponents to increased pumping argue that:

- 1) DWP has not stressed serious water conservation to its users nor been willing to change its rate structure to discourage water use nor maximized use of reclaimed water.
- 2) DWP has not demonstrated a growth in the Los Angeles basin population that justifies more water consumption.
- 3) limiting the amount of water pumped does not nec-

essarily mean reduced water export. Granted it would in dry years. But excess stream run-off in wet years could be stored in the San Fernando basins for dry year use.

As a case history, the Owens Valley water dispute encompasses many League positions. This historic issue reflects broader state-wide water management questions and their ramifications.